

ESTTA Tracking number: **ESTTA520844**

Filing date: **02/11/2013**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

## Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

### Opposer Information

Name	Billionaire Trademarks B.V.
Granted to Date of previous extension	02/10/2013
Address	Gelderlandplein 75 L Amsterdam, 1082 LV NETHERLANDS
Attorney information	Marilyn M. Brogan, Ronald R. Santucci Frommer Lawrence & Haug LLP 745 Fifth Avenue New York, NY 10151 UNITED STATES docket@flhlaw.com, mbrogan@flhlaw.com Phone:212 588 0800

### Applicant Information

Application No	85566394	Publication date	08/14/2012
Opposition Filing Date	02/11/2013	Opposition Period Ends	02/10/2013
Applicant	Billion International, Inc. Suite 307 2805 East Oakland Park Blvd. Ft. Lauderdale, FL 33306 UNITED STATES		

### Goods/Services Affected by Opposition

Class 025. All goods and services in the class are opposed, namely: Clothing, namely, shirts, suits, ties, socks and underwear
Class 035. All goods and services in the class are opposed, namely: Retail clothing store services

### Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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### Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	3730055	Application Date	10/07/2005
Registration Date	12/22/2009	Foreign Priority Date	NONE
Word Mark	BILLIONAIRE		

Design Mark	<b>BILLIONAIRE</b>
Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 2008/05/19 First Use In Commerce: 2008/05/19 Shoes, belts, hats, suits, neckties, jeans; blazers, blouses, boots, caps, camisoles, cardigans, coats, gloves, footwear, headwear, jackets, jerseys, jumpers, overcoats, pants, scarves, shirts, slacks, slippers, socks, sport coats, sweaters, sweat shirts, t-shirts, tank tops, trousers, underwear, vests

Attachments	78729360#TMSN.gif ( 1 page )( bytes ) NOTICE OF OPPOSITION (2).pdf ( 10 pages )(517631 bytes )
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### **Certificate of Service**

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/marilyn m. brogan/
Name	Marilyn M. Brogan, Ronald R. Santucci
Date	02/11/2013

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

The Matter of Application for registration of the mark **BILLION**, Serial No. **85/566394** (the "Application") filed on March 12, 2012 by Billion International ("Applicant") which was published in the Official Gazette on August 14, 2012

-----X	:	
Billionaire Trademarks B.V.	:	
	:	
v.                      Opposer,	:	
	:	Opposition No.:
	:	
Billion International, Inc.                      :	:	
	:	
Applicant.	:	
-----X		

**NOTICE OF OPPOSITION**

Billionaire Trademarks B.V., a Netherlands Private Limited Liability Company, having a business address of Gelderlandplein 75L, Amsterdam, Netherlands 1082LV, ("Opposer"), believes it would be damaged by registration of the trademark **BILLION** (the "Subject Mark") shown in Application Serial No. **85/566394** (the '394 application) filed by Billion International, Inc. ("Applicant") and hereby opposes the **BILLION** application.

As grounds for opposition, it is alleged as follows:

1. Opposer is the owner of the mark **BILLIONAIRE**, which is the subject of U.S. Reg. No. 3,730,055 for clothing in Class 25 (“the **BILLIONAIRE** Mark”). This registration is in full force and effect as evidenced by the attached copy of the registration certificate and print-out from the USPTO’s TSDR database (Exhibit A). The application to register the **BILLIONAIRE** mark was filed October 7, 2005 and recites a date of first use in commerce of May 19, 2008.

2. On or about March 12, 2012, Billion International, Inc. filed an intent-to-use trademark application for the mark **BILLION**, U.S. Serial No. 85/566,394 (the ‘394 Application”) for various clothing items in Class 25 and retail clothing services in Class 35.

3. Opposer’s use of its **BILLIONAIRE** mark long predates the filing date of the ‘394 application.

4. There is no issue as to priority. Applicant acquired no rights in the **BILLION** mark in the United States before Opposer acquired rights in the **BILLIONAIRE** mark.

5. Opposer has spent and continues to spend substantial sums of money to advertise, promote and supply its high quality goods sold under its **BILLIONAIRE** mark.

6. The **BILLIONAIRE** mark is a distinctive trademark of Opposer and represents the good will of Opposer’s business, and serves to identify the exclusive origin of certain goods from Opposer and distinguish Opposer’s goods from those of others.

7. Opposer’s **BILLIONAIRE** mark is an arbitrary and fanciful term as applied to the recited goods.

8. Applicant seeks to register **BILLION** as a trademark in International Class 25 for

clothing items and in International Class 35 for retail clothing store services, which goods and services are closely related to and/or identical in nature and purpose to Opposer's goods.

9. Applicant's alleged mark **BILLION** closely resembles the Opposer's **BILLIONAIRE** mark in both appearance and pronunciation; the only point of distinction being the presence of the letters "aire" in the subject mark.

10. Applicant's alleged mark **BILLION** is so similar to Opposer's **BILLIONAIRE** mark when used in connection with the goods and services recited in the '394 application, that it is likely to cause confusion, mistake or deception with consequent injury to Opposer and the public.

11. Opposer will be damaged by the registration sought by Applicant because such registration will support and assist Applicant in the confusing and misleading use of Applicant's mark sought to be registered, and will give color of exclusive statutory rights to Applicant in violation and derogation of the prior and superior rights of Opposer.

12. Applicant's alleged trademark **BILLION**, when used in connection with the goods and services recited in the '394 application, is likely to cause confusion or mistake or deception with consequent injury to Opposer and the public. Use of **BILLION** would likely lead to the mistaken belief that Applicant's products and services, originate with, are affiliated with, or are somehow sponsored and approved by Opposer and will dilute the distinctiveness of and tarnish Opposer's **BILLIONAIRE** mark.

13. Due to the similarity between the marks, goods, services, trade channels and customers for **BILLIONAIRE** and **BILLION** goods, consumers are likely to associate the parties goods/services with the incorrect manufacturer or source of the goods and services.

14. For the foregoing reasons, Applicant is not entitled to registration of the mark **BILLION** and registration should be refused pursuant to Section 2(d) of the Trademark Act on

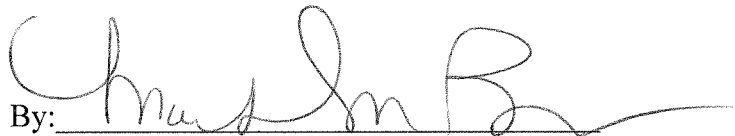
the grounds that Applicant's alleged **BILLION** mark so resembles Opposer's **BILLIONAIRE** mark as to cause confusion, mistake, deception and/or dilution.

15. Opposer therefore believes it will be damaged by the registration of **BILLION** by Applicant as a result of the aforementioned confusion, mistake, deception and/or dilution.

**WHEREFORE**, Opposer respectfully requests that this Opposition be sustained and that Application Serial No. **85/566394** filed March 12, 2012 be rejected and disallowed, and that registration of **BILLION** to Applicant be refused.

Respectfully submitted,

Dated: February 11, 2013

By: 

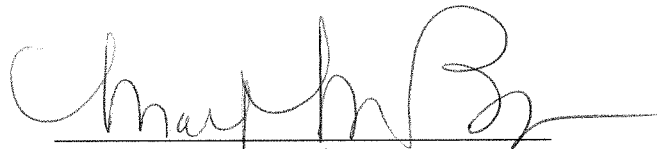
Ronald R. Santucci  
Marilyn Matthes Brogan  
Deena Levy Weinhouse

(212) 588-0800

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on the 11<sup>th</sup> day of February 2013, the foregoing **Notice of Opposition** was served by E- mail to: [rthornburg@addmg.com](mailto:rthornburg@addmg.com) and by placing same in the United States mail, first class postage prepaid, addressed to:

Robert H. Thornburg, Esq.  
ALLEN, DYER, DOPPELT, MILBRATH & GILCHRIST, P.A.  
777 Brickell Avenue, Suite 1114  
Miami, FL 33131



Marilyn Matthes Brogan

# United States of America

United States Patent and Trademark Office

## BILLIONAIRE

**Reg. No. 3,730,055** BILLIONAIRE COUTURE NETHERLANDS BV (NETHERLANDS PRIVATE LIMITED

Registered Dec. 22, 2009 LIABILITY COMPANY)

GELDERLANDPLEIN 75L

AMSTERDAM, NETHERLANDS 1082LV

**Int. Cl.: 25**

**TRADEMARK**  
**PRINCIPAL REGISTER**

FOR: SHOES, BELTS, HATS, SUITS, NECKTIES, JEANS; BLAZERS, BLOUSES, BOOTS, CAPS, CAMISOLES, CARDIGANS, COATS, GLOVES, FOOTWEAR, HEADWEAR, JACKETS, JERSEYS, JUMPERS, OVERCOATS, PANTS, SCARVES, SHIRTS, SLACKS, SLIPPERS, SOCKS, SPORT COATS, SWEATERS, SWEAT SHIRTS, T-SHIRTS, TANK TOPS, TROUSERS, UNDERWEAR, VESTS, IN CLASS 25 (U.S. CLS. 22 AND 39).

FIRST USE 5-19-2008; IN COMMERCE 5-19-2008.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

SN 78-729,360, FILED 10-7-2005.

TRACY WHITTAKER-BROWN, EXAMINING ATTORNEY



*David J. Kypos*

Director of the United States Patent and Trademark Office

5.6.6.7 A



STATUS

DOCUMENTS

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Generated on: This page was generated by TSDR on 2013-02-11 11:51:49 EST

Mark: BILLIONAIRE

**BILLIONAIRE**

US Serial Number: 78729360

Application Filing Date: Oct. 07, 2005

US Registration Number: 3730055

Registration Date: Dec. 22, 2009

Register: Principal

Mark Type: Trademark

Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Status Date: Dec. 22, 2009

Publication Date: Dec. 26, 2006

Notice of Allowance Date: Mar. 20, 2007

▼ Mark Information

[Collapse All](#)

Mark Literal Elements: BILLIONAIRE

Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type: 4 - STANDARD CHARACTER MARK

▼ Goods and Services

Note:

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [ ] indicate deleted goods/services;
- Double parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks "\*" identify additional (new) wording in the goods/services.

For: Shoes, belts, hats, suits, neckties, jeans; blazers, blouses, boots, caps, camisoles, cardigans, coats, gloves, footwear, headwear, jackets, jerseys, jumpers, overcoats, pants, scarves, shirts, slacks, slippers, socks, sport coats, sweaters, sweat shirts, t-shirts, tank tops, trousers, underwear, vests

International 025 - Primary Class

U.S Class: 022, 039

Class:

Class Status: ACTIVE

Basis: 1(a)

First Use: May 19, 2008

Use in Commerce: May 19, 2008

▼ Basis Information (Case Level)

Filed Use: No

Currently Use: Yes

Amended Use: No

Filed ITU: Yes

Currently ITU: No

Amended ITU: No

Filed 44D: No

Currently 44D: No

Amended 44D: No

Filed 44E: No

Currently 44E: No

Amended 44E: No

Filed 66A: No

Currently 66A: No

Filed No Basis: No

Currently No Basis: No

▼ Current Owner(s) Information

Owner Name: BILLIONAIRE TRADEMARKS B.V.

Owner Address: GELDERLANDPLEIN 75 L, 1082 LV  
AMSTERDAM  
NETHERLANDS

Legal Entity Type: CORPORATION

State or Country Where Organized: NETHERLANDS

▼ Attorney/Correspondence Information

Attorney of Record

Attorney Name: B. Parker Livingston, Jr.

Docket Number: 1030821-295

**Correspondent**

**Correspondent** B. Parker Livingston, Jr.  
**Name/Address:** Buchanan Ingersoll & Rooney, PC  
PO Box 1404  
Alexandria, CALIFORNIA 22313-1404  
UNITED STATES

**Phone:** 703-836-6620

**Fax:** 703-836-2021

**Correspondent e-mail:** [parker.livingston@bipc.com](mailto:parker.livingston@bipc.com)

**Correspondent e-mail No**

**Authorized:**

**Domestic Representative - Not Found**

**Prosecution History**

Date	Description	Proceeding Number
Mar. 17, 2010	AUTOMATIC UPDATE OF ASSIGNMENT OF OWNERSHIP	
Dec. 22, 2009	REGISTERED-PRINCIPAL REGISTER	
Nov. 13, 2009	LAW OFFICE REGISTRATION REVIEW COMPLETED	66121
Nov. 06, 2009	ASSIGNED TO LIE	66121
Nov. 02, 2009	ALLOWED PRINCIPAL REGISTER - SOU ACCEPTED	
Oct. 20, 2009	AMENDMENT TO USE PROCESSING COMPLETE	
Oct. 20, 2009	USE AMENDMENT FILED	
Oct. 19, 2009	TEAS AMENDMENT OF USE RECEIVED	
Oct. 15, 2009	EXAMINER'S AMENDMENT ENTERED	77075
Oct. 05, 2009	NOTIFICATION OF EXAMINERS AMENDMENT E-MAILED	6328
Oct. 05, 2009	EXAMINERS AMENDMENT E-MAILED	6328
Oct. 05, 2009	EXAMINERS AMENDMENT -WRITTEN	74672
Oct. 02, 2009	CASE RETURNED TO EXAMINATION	61813
Sep. 22, 2009	EXTENSION 5 GRANTED	76569
Sep. 20, 2009	EXTENSION 5 FILED	76569
Sep. 21, 2009	TEAS EXTENSION RECEIVED	
Sep. 21, 2009	PETITION TO DIRECTOR - GRANTED	65294
Aug. 28, 2009	ASSIGNED TO PETITION STAFF	65294
Aug. 21, 2009	PETITION TO DIRECTOR RECEIVED	77978
Aug. 21, 2009	PAPER RECEIVED	
Mar. 13, 2009	EXTENSION 4 GRANTED	98765
Mar. 13, 2009	EXTENSION 4 FILED	98765
Mar. 13, 2009	TEAS EXTENSION RECEIVED	
Sep. 22, 2008	EXTENSION 3 GRANTED	76569
Sep. 19, 2008	EXTENSION 3 FILED	76569
Sep. 22, 2008	CASE ASSIGNED TO INTENT TO USE PARALEGAL	76569
Sep. 19, 2008	TEAS EXTENSION RECEIVED	
Apr. 04, 2008	EXTENSION 2 GRANTED	66154
Mar. 19, 2008	EXTENSION 2 FILED	66154
Mar. 19, 2008	TEAS EXTENSION RECEIVED	
Mar. 19, 2008	AUTOMATIC UPDATE OF ASSIGNMENT OF OWNERSHIP	
Feb. 01, 2008	EXTENSION 1 GRANTED	61813
Sep. 20, 2007	EXTENSION 1 FILED	61813
Jan. 24, 2008	EXTENSION RECEIVED WITH TEAS PETITION	
Jan. 24, 2008	PETITION TO REVIVE-GRANTED	88889
Jan. 24, 2008	TEAS PETITION TO REVIVE RECEIVED	
Jan. 24, 2008	ATTORNEY REVOKED AND/OR APPOINTED	
Jan. 24, 2008	TEAS REVOKE/APPOINT ATTORNEY RECEIVED	
Jan. 02, 2008	ABANDONMENT NOTICE MAILED - NO USE STATEMENT FILED	
Dec. 07, 2007	ABANDONMENT - NO USE STATEMENT FILED	43538

Mar. 20, 2007	NOA MAILED - SOU REQUIRED FROM APPLICANT	
Dec. 26, 2006	PUBLISHED FOR OPPOSITION	
Dec. 06, 2006	NOTICE OF PUBLICATION	
Nov. 19, 2006	LAW OFFICE PUBLICATION REVIEW COMPLETED	76869
Nov. 01, 2006	ASSIGNED TO LIE	76869
Oct. 24, 2006	APPROVED FOR PUB - PRINCIPAL REGISTER	
Oct. 10, 2006	TEAS/EMAIL CORRESPONDENCE ENTERED	88889
Oct. 06, 2006	CORRESPONDENCE RECEIVED IN LAW OFFICE	88889
Oct. 06, 2006	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
Apr. 12, 2006	NON-FINAL ACTION E-MAILED	6325
Apr. 12, 2006	NON-FINAL ACTION WRITTEN	74672
Apr. 11, 2006	ASSIGNED TO EXAMINER	74672
Oct. 12, 2005	NEW APPLICATION ENTERED IN TRAM	

#### TM Staff and Location Information

TM Staff Information - None

##### File Location

Current Location: PUBLICATION AND ISSUE SECTION

Date in Location: Nov. 13, 2009

#### Assignment Abstract of Title Information

Conveyance Filter

##### Summary

Total Assignments: 2

Registrant: BILLIONAIRE COUTURE NETHERLANDS BV

#### Assignment 1 of 2

Conveyance: ASSIGNS THE ENTIRE INTEREST

Reel/Frame: 3741/0535

Pages: 3

Date Recorded: Mar. 17, 2008

Supporting Documents: assignment-tm-3741-0535.pdf

##### Assignor

Name: DE ANGELIS, COSTANZO

Execution Date: Mar. 11, 2008

Legal Entity Type: INDIVIDUAL

Citizenship: UNITED STATES

##### Assignee

Name: BILLIONAIRE COUTURE NETHERLANDS BV

Legal Entity Type: PRIVATE LIMITED LIABILITY COMPANY

State or Country Where NETHERLANDS

Organized:

Address: GELDERLANDPLEIN 75L  
AMSTERDAM, NETHERLANDS 1082LV

##### Correspondent

Correspondent Name: JENNIFER L. WILLISTON

Correspondent Address: 1737 KING STREET, SUITE 500  
ALEXANDRIA, VA 22314

##### Domestic Representative - Not Found

#### Assignment 2 of 2

Conveyance: ASSIGNS THE ENTIRE INTEREST

Reel/Frame: 4164/0615

Pages: 4

Date Recorded: Mar. 10, 2010

Supporting Documents: assignment-tm-4164-0615.pdf

##### Assignor

Name: BILLIONAIRE COUTURE NETHERLANDS B.V.

Execution Date: Jan. 16, 2010

Legal Entity Type: CORPORATION

State or Country Where NETHERLANDS

Organized:

##### Assignee

Name: BILLIONAIRE TRADEMARKS B.V.

**Legal Entity Type:** CORPORATION

**State or Country Where** NETHERLANDS

**Organized:**

**Address:** GELDERLANDPLEIN 75 L, 1082 LV  
AMSTERDAM, NETHERLANDS

**Correspondent**

**Correspondent Name:** B. PARKER LIVINGSTON, JR.

**Correspondent Address:** P.O. BOX 1404  
ALEXANDRIA, VA 22313-1404

**Domestic Representative**

**Domestic Representative** B. PARKER LIVINGSTON, JR.  
**Name:**

**Domestic Representative** P.O. BOX 1404  
**Address:** ALEXANDRIA, VA 22313-1404